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UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

RICHARD CUSHING DONOVAN
CLERK

JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

NOTICE OF PROPOSED AMENDMENTS TO
INTERNAL OPERATING PROCEDURES

The United States Court of Appeals for the First Circuit hereby provides notice that it proposes minor amendments to its Internal Operating Procedures. Additions are noted in *italic* print; deletions are shown in ~~strike-out~~ print. The purpose of these amendments is to update the Internal Operating Procedures to reflect current practice or statutory requirements, to correct citations, and to provide additional information.

The proposed amendments are as follows:

Internal Operating Procedure III. Initial Procedures

A. Appeals, Petitions for Review and Fees. In cases appealed from the district court the notice of appeal is filed in the district court in accordance with the Fed. R. App. P. and the \$255.00 combined docketing and filing fees required by 28 U.S.C. § 1913 are paid to the district court clerk. In administrative agency cases and petitions for mandamus, the \$100.00 \$250.00 docketing fee is paid to the Clerk of the Court of Appeals at the time the petition is filed in the Court of Appeals.

Internal Operating Procedure IV. Docketing Procedures

C. Briefing. Upon the filing of the record on appeal, including any transcripts required to complete the record, the Clerk's Office sends to counsel a notice advising appellant of the filing dates for the statement of issues, designation of contents of appendix, the brief and the appendix. After the brief for appellant is filed, the Clerk's Office likewise gives notice to the appellee.

Internal Operating Procedure V. Motion Procedures

A. General. In accordance with Fed. R. App. P. 27(d) (3), all motions must be accompanied by 3 copies, and a proof of service showing the type of service that was made, i.e., by mail or by hand delivery. The date of service establishes the due date for filing the response per Fed. R. App. P. 27(b)(a)(3).

B. Processing. All motions must be filed with the clerk. The single judge matters are transmitted to a single judge and the matters calling for three judge action are transmitted to a three judge panel. The motion judge and the motion panel duties are rotated among the active judges of this court. All motions are decided without oral argument, unless the Court orders otherwise. The motions are submitted to the Court after the return times provided in the Fed. R. App. P. have run except for (1)

routine procedural motions which are usually processed forthwith, and (2) emergency motions which may be handled on an expedited basis.

C. Emergencies. If counsel anticipates that a matter may arise requiring emergency action by the court outside of ordinary business hours, the court's local rules advise counsel to contact the Clerk's Office at the earliest opportunity to discuss the matter. Depending on the circumstances, the Clerk's Office, in consultation with the duty judge and the Staff Attorney's Office, may make special arrangements for after hours filings and responses, issuance of orders after hours, and similar matters. *Counsel are further advised that in all emergency matters, whether or not action outside of ordinary business hours is required, the process is facilitated if counsel contacts the Clerk's Office in advance and the motion seeking expedited relief clearly indicates the date by which a ruling is requested and the reasons supporting expedition.*

Internal Operating Procedure VI. Briefs and Appendices

A. General. ~~Fed. R. App. P. 32 applies to the form of briefs, appendices and other papers filed in the Court of Appeals. The new rule, adopted in December, 1998, eliminates page limitations and instead imposes type size and word or line limitations. The provisions of the rule should be consulted but, as a general matter, the following will be accepted:~~

- ~~1. Monospaced type: 12 point Courier or New Courier; or~~
- ~~2. Proportional type: 14 point Times New Roman or CG Times.~~

The court's website, www.ca1.uscourts.gov, contains guidelines and a checklist to assist counsel in preparing briefs. Counsel are advised that any brief that does not conform to the requirements of the rules may be rejected.

Internal Operating Procedure VIII. Oral Argument

E. Recording. Oral arguments in all cases are ~~tape~~ *digitally* recorded for the use of the Court *and* ~~Such tape recordings are not part of the permanent record of the case and are erased for reuse of the tape six months after the issuance of the mandate.~~ A *disk* copy of ~~the a tape~~ recording of an oral argument may be obtained ~~within that time frame~~ by submitting a request in writing to the Clerk with a check for \$20.00.

Internal Operating Procedure XI. Complaints Against Judges

The procedure for filing complaints against judges is set forth in the ~~First Circuit Council Rules for Processing of the Judicial Council of the First Circuit Governing~~ *Complaints of Judicial Misconduct or Disability*. A copy of these Rules may be obtained from the Clerk of this Court.

The Court of Appeals invites public comments on these proposed changes. Comments should be received by March 19, 2004, and addressed to:

Office of the Clerk
U.S. Court of Appeals for the First Circuit
John Joseph Moakley Courthouse
1 Courthouse Way, Suite 2500
Boston, Massachusetts 02210

February 19, 2004

Richard Cushing Donovan